



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 4. CALIFORNIA SCHOOL FINANCE AUTHORITY

NOTICE OF PROPOSED RULEMAKING ACTION

Article 2, Sections 10175 to 10191 Title 4, Division 15 California Code of Regulations

NOTICE IS HEREBY GIVEN that the California School Finance Authority (CSFA), organized and operating pursuant to Sections 17170 through 17199.5 of the Education Code, proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action. The CSFA Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person(s) designated in this notice as Contact Person and will be mailed to those persons who submit statements related to this proposal or who have required notification of any changes to the proposal.

PROPOSED REGULATORY ACTION

CSFA proposes to amend Sections 10175, 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10185, 10187, 10188, and 10190 of Title 4 of the California Code of Regulations (Regulations). The Regulations implement CSFA's responsibilities related to the State Charter School Facilities Incentive Grants Program (Grant).

AUTHORITY AND REFERENCE

Authority: Sections 17179 and 17180, Education Code. Section 17179 provides CSFA with the authority

to do all things reasonably necessary to carry out its responsibilities. Section 17180(a) of the Education Code provides CSFA the authority to adopt bylaws for the regulation of its affairs and the conduct of its business. Subsection (d) provides CSFA with the authority to receive and accept grants from the federal government.

Reference: Sections 17078.52–17078.66 of the Education Code, section 17180(d) of the Education Code, and section 47600, et seq., of the Education Code. These Regulations implement the State Charter School Facilities Incentive Grants Program (Grant) and include a number of the requirements of that program contained in the reference code provisions and their implementing Regulations. They also rely on a number of provisions in the Charter Schools Act of 1992, commencing with section 47600 of the Education Code. Section 17180(d) provides CSFA with the authority to receive grants from the federal government.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CSFA was created in 1985 to assist school districts and community college districts in financing school construction projects (Education Code section 17170, et seq.). CSFA is authorized to adopt bylaws for the regulation and conduct of its business, is vested with all powers reasonably necessary to carry out its powers and responsibilities, and may receive and accept grants from a federal agency (Education Code sections 17179 and 17180).

In 2004 and 2009, the United States Department of Education approved grant awards to CSFA pursuant to the State Charter School Facilities Incentive Grants Program (Grant), authorized under Title V, Part B, Subpart 1 of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001. The Grant provides for \$49,250,000 in 2004 and \$46,132,749 in 2009 to be awarded over five-year periods for the purposes of funding per-pupil facilities aid programs for California charter schools. Grant funds may be applied toward a charter school's annual costs of rent, lease, mortgage, or debt service payments for facilities or toward the purchase, design, and construction costs of acquiring land and constructing or renovating a facility.

Pursuant to the federal rules governing the Grants, an annual portion of the funds must be allocated during each of five consecutive federal fiscal years. The first funding round began on June 28, 2005 when an emergency rulemaking file was approved by the Office of Administrative Law. Permanent Regulations implementing the Grant were approved March 24, 2006.

The allocation of these grant funds to eligible charter schools are based on preference points assigned for cer-

tain factors, including the low income population served by the school as reported by the percentage of students eligible to receive free/reduced price meals, the school's nonprofit status, whether a school is located in an overcrowded attendance area, and the school's performance in relation to API (Annual Performance Index), AYP (Adequate Yearly Progress) and in comparison to its nearby public schools.

The amendments to the Regulations are briefly summarized below and are intended to clarify the requirements as well as to add two more preference point categories and increase the weight allocated to preference points based on student performance.

Section 10175: Reference to the Charter School Facilities Program was removed from the text of regulations, and per-pupil facilities aid was added to the description of the program. Amendments clarify that the focus of the grant program is a per-pupil facilities aid program.

Sections 10176: Amendments include definitions for Academic Performance Index Growth and Adequate Yearly Progress and update the definition of Program.

Section 10177: Clarifies that an applicant must be in good standing with its chartering authority and in compliance with the terms of its charter to be eligible to apply. Any appeals by the charter school to negative information provided on the form must be directed to the governing board of the charter authorizer. The charter school is responsible for ensuring the information is provided to CSFA by the dates requested during each funding round. Also, a previous subgrantee under the first five funding rounds may be eligible to apply for new funds.

Section 10178: Clarifies the purposes for which grant funds may be used by breaking out the areas into numbered items. Also clarifies that funds are for current and future costs based on the date of the award. Provides that awards may not be used toward the debt service or purchase/construction project designated as the project under a previous program award.

Section 10179: Clarifies that funds awarded under the 2004 grant and the 2009 grant may not be combined and awards to subgrantees may not exceed the respective grant funding period designated by the U.S. Department of Education.

Section 10180: Amendment to wording emphasizes that applications must be received by the final filing date.

Section 10181: Adds an item to the application package asking applicants to provide a description of how an award of grant funds will be used. Subsection (k) clarifies that documentation of an applicant's good standing with its chartering authority and compliance with the terms of its charter are required for an application to be deemed complete. Any appeals by the charter school to

negative information provided on the form must be directed to the governing board of the charter authorizer. The charter school is responsible for ensuring the information is provided to CSFA by the dates requested during each funding round.

Section 10182: Amendments increase the maximum preference points that may be assigned. Subsection (d) increase the points possible for Student Performance. Subsection (e) provides a possible 20 points for School Choice for applicant charter schools that are physically located within three miles of any regular public school which is not meeting student performance standards while the applicant charter school is meeting the student performance standards. Subsection (f) provides a First-Time Award Competitive Priority of 20 preference points for eligible applicants that have not received an award previously.

Section 10185: Amendments to this section provide clarification regarding the end of the funding periods for each of the two grant programs and clarify that grants to subgrantees near the end of the funding period will be based on the time remaining. Additionally, a requirement is added that subgrantees receiving funds for purchase, construction, or renovation must provide evidence of annual costs on an annual basis to ensure funds are disbursed on schedule.

Section 10187: Subsection (h) adds facilities to the list of material changes that must be reported to CSFA by the subgrantees. Subsection (j) adds authorizer compliance and charter standing to the list of possible actions against a charter that must be reported to CSFA by the subgrantees.

Section 10188: Amendments to Subsection (b) clarify the uses of grant funds by adding facilities to the uses included in the second disbursement option available to subgrantees. Subsection (e) adds project and facility costs to the categories that must be documented to CSFA on a semi-annual basis and clarifies that semi-annual documentation of an applicant's good standing with its chartering authority and compliance with the terms of its charter is required to maintain continuing eligibility. Any appeals by the charter school to negative information provided on the form must be directed to the governing board of the charter authorizer. The charter school is responsible for ensuring the information is provided to CSFA by the due dates. Subsection (f) adds purchasing to the list of potential costs that must be reported to CSFA annually as described in Section 10185.

Section 10190: Amendments to Subsection (a) clarify that subgrantees are subject to audits that may be conducted by CSFA and that may be required by CSFA, for up to three years after the end of the grant funding period or three years after certification of completion of the project, whichever is longer. Subsection (f) is added to

verify that CSFA reserves the right to conduct site visits to any subgrantee.

**OTHER MATTERS PRESCRIBED
BY STATUTES APPLICABLE
TO THE SPECIFIC STATE
AGENCY OR TO ANY
SPECIFIC REGULATION OR
CLASS OF REGULATIONS**

No other matters prescribed by statute are applicable to CSFA or to any specific Regulation or class of Regulations pursuant to Section 11346.5(a)(4) of the California Government Code pertaining to the proposed Regulations or CSFA.

**MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

CSFA has determined that the Regulations do not impose a mandate on local agencies or school districts.

FISCAL IMPACT

CSFA has determined that the Regulations do not impose any additional cost or savings to any state agency, any costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other non-discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.

While CSFA will incur additional expenses in implementing and administering the Grant, the U.S. Department of Education provides that CSFA may charge such additional expenses for CSFA's administrative costs against the Grant, up to five percent. Therefore, there is no fiscal impact on the State's General Fund or requirement of additional appropriations by the Legislature. There will be no cost or savings to any State Agency pursuant to Government Code Sections 11346.1(b) or 11346.5(a)(6).

**INITIAL DETERMINATION REGARDING
ANY SIGNIFICANT, STATEWIDE
ADVERSE ECONOMIC IMPACT DIRECTLY
AFFECTING BUSINESS**

CSFA has made an initial determination that the Regulations will not have any significant, statewide adverse economic impact directly affecting businesses, includ-

ing the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

CSFA has determined that the adoption of the Regulations will not affect small business. The Grant is a voluntary financing program available to charter schools to assist in the financing of charter school facilities.

COST IMPACTS

The CSFA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT ON JOBS
AND BUSINESS EXPANSION,
ELIMINATION OR CREATION**

Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

COST IMPACT ON HOUSING

The Regulations will not have any effect on housing costs.

REASONABLE ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), CSFA must determine that no reasonable alternative to the Regulations considered by CSFA or that has otherwise been identified and brought to the attention of CSFA would be more effective in carrying out the purpose for which the Regulations are proposed or would be as effective and less burdensome to affected private persons than the Regulations.

CSFA invites interested persons to present statements with respect to alternatives to the Regulations during the written comment period.

AGENCY CONTACT PERSON(S)

Written comments, inquiries, and any questions regarding the substance of the Regulations shall be submitted or directed to:

Katrina Johantgen, Executive Director
California School Finance Authority

at:

304 South Broadway, Suite 550
Los Angeles, CA 90013-1224
(213) 620-4467

or

915 Capitol Mall, Room 336
Sacramento, CA 95814
(916) 651-7710

or

kjohantgen@treasurer.ca.gov

csfa@treasurer.ca.gov

The following person is designated as a backup contact person for inquiries only regarding the Regulations:

Kristin Smith, Staff Counsel
State Treasurer's Office
(916) 653-0252

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Regulations to CSFA. The written comment period on the Regulations will end at 5:00 p.m. on Monday February 8, 2009. All comments to be considered by CSFA must be submitted in writing to the Agency Contact Person identified in this Notice by that time. In the event that changes are made to the Regulations during the written comment period, CSFA will also accept additional written comments limited to any changed or modified Regulations for 15 calendar days after the date on which such Regulations, as changed or modified are made available to the public pursuant to title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, RULEMAKING FILE AND EXPRESS TERMS OF PROPOSED REGULATIONS

Pursuant to the California Government Code, CSFA has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at CSFA's office at 915

Capitol Mall, Sacramento, California, during normal business hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, and the proposed text of the Regulations. Copies of these items are available upon request, from the Agency Contact Person designated in this Notice. The Sacramento address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons and the proposed text, may be viewed on CSFA's Web site at www.treasurer.ca.gov/csfa.

PUBLIC HEARING

No public hearing regarding the Regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to CSFA at least 15 days before the end of the written comment period. Such request should be addressed to the Agency Contact Person identified in this Notice and should specify the Regulations for which the hearing is being requested.

15-DAY AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period ends and following a public hearing, if any is requested, CSFA may adopt the Regulations substantially as described in this Notice, without further notice. If CSFA makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public (including through CSFA's Web site described above) for at least fifteen (15) calendar days before CSFA adopts the proposed Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF FINAL STATEMENT OF REASONS

CSFA is required to prepare a Final Statement of Reasons pursuant to Government Code Section 11346.9. Once CSFA has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy and will be available on CSFA's Web site described above. Written requests for copies should be addressed to the Agency Contact Person identified in this Notice.

**TITLE 10. CALIFORNIA DEPARTMENT
OF REAL ESTATE**

**INFORMATIVE DIGEST/PLAIN ENGLISH
OVERVIEW**

NOTICE IS HEREBY GIVEN

The Commissioner (Commissioner) of the Department of Real Estate (Department) proposes to adopt rules entitled, "California Foreclosure Prevention Act." The proposed regulatory action clarifies the application of Civil Code Sections 2923.52 and 2923.53 under the California Foreclosure Prevention Act. The proposed rules were adopted as emergency regulations on June 1, 2009, and readopted as emergency regulations on December 1, 2009. In this rulemaking action the Commissioner proposes to permanently adopt Article 16.5, Sections 2850.1, 2850.2, 2850.3, 2850.4, 2850.5, 2850.6, 2850.7, 2850.8, 2850.9, and Section 2850.10 to Chapter 6, Title 10 of the California Code of Regulations.

PUBLIC COMMENTS

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department addressed as follows:

Regular Mail

Department of Real Estate
Attn: Daniel E. Kehew, Office of Legislation
and Policy
2201 B Street, Suite 200
Sacramento, CA 95818

Electronic Mail

DRERegulations@dre.ca.gov

Facsimile

(916) 227-9458

Comments may be submitted until 5:00 p.m., February 10, 2010. If the final day for the acceptance of comments is a Saturday, Sunday, or state holiday, the comment period will close at 5:00 p.m. on the next business day.

In the fall of 2008, in response to the continuing foreclosure crisis in California, the Governor proposed to the Legislature a concept to reduce foreclosures by encouraging loan modifications in the marketplace. This plan was a follow-up to the Administration's previous actions to encourage loan modifications by servicers, including a November 2007 agreement with servicers intended to address resetting interest rates, and the signing of SB 1137 (Perata, Chapter 69, Statutes of 2008) in the summer of 2008, to require residential mortgage servicers reach out to borrowers at least 30 days before a notice of default is filed in a foreclosure proceeding, to attempt to work out a solution.

The Governor's proposal involved encouraging residential mortgage loan servicers to streamline the process for modifying loans by changing the requirements for nonjudicial foreclosures for loans serviced by mortgage loan servicers that had not implemented a comprehensive loan modification program. The initial parameters for a comprehensive loan modification program were modeled after the program that the Federal Deposit Insurance Corporation (FDIC) implemented to modify loans in the IndyMac Federal Bank portfolio after the FDIC was appointed conservator of that institution.

Through the legislative process, the Legislature further developed the Governor's proposal into the California Foreclosure Prevention Act. In February of 2009, during the second extraordinary session the Legislature sent to the Governor two bills enacting the California Foreclosure Prevention Act: ABX2 7 (Lieu, Chapter 5, Statutes of 2009) and SBX2 7 (Corbett, Chapter 4, Statutes of 2009). On February 20, 2009, the Governor signed these bills.

Among other things, the California Foreclosure Prevention Act required the Commissioners of Real Estate, Corporations, and Financial Institutions to adopt emergency regulations to clarify the application of Civil Code Sections 2923.52 and 2923.53; two sections added to the Civil Code by the California Foreclosure Prevention Act. The Commissioners adopted the emergency regulations and on June 1, 2009, the regulations were filed with the Secretary of State and became effective. In accordance with the law's provisions, 14 days after the effective date of the regulations, the act became operative. These emergency regulations were readopted on December 1, 2009.

In this rulemaking action the Commissioner seeks to permanently adopt the emergency regulations clarifying the application of Civil Code Sections 2923.52 and 2923.53 of the California Foreclosure Prevention Act.

The Commissioner proposes to adopt Article 16.5 to Chapter 6 of Title 10 of the California Code of Regulations, entitled “California Foreclosure Prevention Act.” In addition, the Commissioner proposes to adopt Subarticle 1 to that subchapter, entitled, “Requirements.” Within Subarticle 1 the Commissioner proposes to adopt six sections.

Section 2850.1, entitled, “Scope of Regulations,” defines the scope of the regulations. The section provides that the subchapter clarifies the application of Civil Code Sections 2923.52 and 2923.53, and sets forth the minimum requirements for a mortgage loan servicer to obtain an order of exemption from Civil Code Section 2923.52. Civil Code Section 2923.52 provides that a trustee may not proceed with a foreclosure sale until the lapse of 90 days in addition to the 3 months after a notice of default is filed on a borrower under Civil Code Section 2924. However, Civil Code Section 2923.52 provides that a mortgage loan servicer may obtain an order exempting it from the prohibition on proceeding with a foreclosure until after the lapse of 90 days, if the mortgage loan servicer has implemented a comprehensive loan modification program.

The section further provides that the modification of loans in conformance with the Home Affordable Modification Program Guidelines issued by the U.S. Department of the Treasury on March 4, 2009, as amended, shall constitute the implementation of a comprehensive loan modification program and shall be deemed to meet all of the requirements in the article. The section also defines “residential mortgage loan” and “borrower.”

Section 2850.2, entitled “Eligibility,” sets forth the minimum eligibility requirements for a borrower and residential mortgage loan under a comprehensive loan modification program, in order for the program to obtain an order of exemption from the Commissioner. A mortgage loan servicer’s comprehensive loan modification may be more inclusive than the minimum requirements set forth in this section, but may not be less inclusive, to obtain an order of exemption. Generally, modifications must be available for borrowers and loans meeting the following requirements:

1. The loan was made between January 1, 2003 and January 1, 2008,
2. The borrower lives in the property,
3. The loan is in default,
4. The loan is a first lien on property in California,
5. The borrower can document the ability to pay the modified loan,
6. The borrower has not surrendered the property, the borrower is not engaged in a bankruptcy proceeding, and the borrower has not contracted to delay the foreclosure process while intending to leave the property.

Section 2850.3, entitled, “Availability,” requires the loan modification program to be made available to all persons and loans meeting the eligibility requirements who contact their servicer to notify the servicer of a financial hardship or to request a loan modification. In addition, the section requires a servicer to reach out to borrowers in financial hardship by including information on the comprehensive loan modification program in the contact with borrowers required at least 30 days before the service of a Notice of Default under Civil Code section 2923.5 (see SB 1137 (Perata–2008), which requires that borrowers be contacted before the filing of the Notice of Default).

Sections 2850.4, 2850.5 and 2850.6 set forth the minimum requirements for a comprehensive loan modification program. Section 2850.5, entitled, “Loan Modification Features,” provides that loans refinanced in accordance with the Hope for Homeowners Program or the Home Affordable Refinance Program meet the minimum requirements of a comprehensive loan modification program. While loan work outs under these federal programs constitute refinancings rather than modifications, the recognition of the federal programs in the rules was intended to clarify that servicers may continue participating in those programs even for borrowers meeting the minimum eligibility requirements for modifications under these rules.

The California Foreclosure Prevention Act provides that a servicer need only modify a loan where the anticipated recovery from a modification exceeds the anticipated recovery from a foreclosure, on a net present value basis. Consequently, Section 2850.5 of the proposed rules provides clarification on determining the net present value. The rule provides that the net present value must be based on reasonable assumptions regarding discount rates, property values, costs of foreclosure, costs of modification, and the ability of the borrower to repay the loan. The proposed rule requires a servicer to have internal or external evidence to support the assumptions, and provides that the “Net Present Value Model Parameters” in the Home Affordable Modification Program Guidelines, meets the requirements of the section and does not require supporting evidence. The proposed rules further require servicers to explain deviations from the “Net Present Value Model Parameters” in the exemption application. The proposed rules require that a loan be modified where the net present value of modifying the loan exceeds the net present value of foreclosing on the loan, provided that the borrower can document income, and provided that after the loan is modified, the borrower can establish the ability to pay the modified loan.

The California Foreclosure Prevention Act provides that a comprehensive loan modification program must target a ratio of a borrower’s housing-related debt to a

borrower's gross income of 38% or less, on an aggregate basis. Consequently, Section 2850.5 of the proposed rules provides that a servicer's loan modifications are to target a 38% housing-related debt to gross income ratio, on an aggregate basis. The rules clarify that a servicer is not required to meet this ratio for every loan modified under the program. The rules further provide that a servicer must identify the reasons in its application the reasons its program does not achieve a 38% housing-related debt to gross income ratio, on an aggregate basis, if such is the case.

Section 2850.5 of the proposed rules provide that a comprehensive loan modification program must include at least two of the following features:

1. An interest rate reduction, as needed, for at least 5 years,
2. An extension of amortization period for the loan term to no more than 40 years from the original date of the loan,
3. Deferral of some portion of the principal until maturity,
4. A reduction in principal,
5. Compliance with a federally mandated loan modification program, or
6. Any other feature that Commissioner determines is appropriate, as described in the servicer's application.

The proposed rules clarify that a program must include at least two of the identified features, but a single loan modification need not include more than one feature. The rules further require that a servicer have criteria in place to define when borrower qualifies for the potential concessions or modifications.

The California Foreclosure Prevention Act provides that when determining a loan modification solution for a borrower, a servicer must seek to achieve long-term sustainability. Consequently, Section 2850.5 sets forth characteristics that are presumed to constitute long term sustainability, including:

1. The modification reduces a borrower's monthly payment for at least 5 years,
2. The modification results in a housing-related debt to income ratio of 38% or less,
3. After a modification, the borrower's back-end debt-to-income ratio is equal to or less than 55%,
4. The borrower is current under the terms of a modified loan at the end of a 3 month period, or
5. The modification is in accordance with a federal program.

In addition to the foregoing, Section 2850.6 sets forth additional proposed requirements for a loan modification program. Subsection (a) sets forth conditions when a loan modification consists solely of a repayment plan.

In particular, a servicer must be able to validate that the borrower has a housing-related debt to gross income ratio of 38% or less, and that the borrower can repay the loan. The subsection further defines a repayment plan as a plan or arrangement where amounts past due are added to the principal amount due on a loan and re-aged so that a loan is no longer delinquent, and no other loan concessions are provided to the borrower.

Subsection (b) requires all eligible loans to be considered for modification under the plan unless an applicable pooling and servicing agreement prohibits the modification. Subsection (c) requires a servicer to use reasonable efforts to remove any prohibitions and obtain waivers or approvals from all necessary parties, including junior lien holders and investors. Subsection (d) requires a servicer to act on a loan modification request within a reasonable time period, and requires a servicer to have procedures in place to ensure that delays in the process not caused by a borrower do not adversely impact a borrower in the loan modification or foreclosure process. Subsection (d) further requires a servicer to acknowledge the receipt of a loan modification request.

Subsection (e) permits a servicer to deny a loan modification request when a borrower abandons or unduly delays the process. Prior to denying the modification request, the servicer must notify the borrower in writing of the time period to respond and the consequence of failing to respond in a reasonable time. Subsection (f) provides that a comprehensive loan modification program may include foreclosure alternatives for borrowers who do not qualify for a loan modification program. Subsection (g) provides that a servicer is not required to modify a loan more than once.

Within Subarticle 2, the Commissioner proposes to adopt 2 sections. Section 2850.7, entitled "Initial Application," sets forth instructions on the filing of the application. This section provides that an applicant shall be temporarily exempt from Civil Code Section 2923.52(a) upon the filing of a substantially complete application. Item 1 instructs applicants on where to file the application, and identifies how an applicant determines whether to file an application with the Department of Corporations, the Department of Financial Institutions, or the Department of Real Estate. Item 2 instructs applicants on when to file an application, and provides that an applicant will be temporarily exempt from Civil Code Section 2923.52(a) upon the appropriate department's receipt of the application.

Item 3 sets forth the manner for the Department to notify an applicant of the temporary order. Item 4 provides that the Department will notify the applicant of whether the applicant has a comprehensive loan modification program within 30 days of the receipt of an application, and notify the applicant of the issuance of a final order. Item 5 provides that upon the denial of an ap-

plication, the Department will immediately notify the servicer, and the temporary order will remain in effect for 30 days following the denial. Item 6 provides that the Department will accept changes to an application while the application is under consideration.

Section 2850.8, entitled "Changes to Program after Final Order," sets forth procedures for the modification of a program after the receipt of a final order. Subdivision (a) prohibits a servicer from modifying a program after a final order is issued unless the servicer informs the Commissioner of the change. Subsection (b) provides that a change to a federal program does not constitute a change to a comprehensive loan modification program and does not require notice to the Commissioner.

Subarticle 3 consists of Section 2850.9, which incorporates the application form. The application requests identifying information from an applicant, requests information on whether an applicant is participating in a loan modification program administered by a federal agency, and requires an applicant to submit several exhibits. Exhibit 1 requires an applicant to describe its loan modification program, and to direct the Department to where within the submitted documentation specified program requirements are met. Exhibit 2 requires an applicant to submit copy of the declaration to be included with the notice of sale, as required by Civil Code section 2923.54. Exhibit 3 requires an applicant to provide the notice to consumers required by Section 2850.3 of these rules. Exhibit 4 requires an applicant to submit 3 months of recent loss mitigation data.

Exhibit 5 requires an applicant to provide additional documentation for other items in the application, if applicable, including the differences between the net present value used by the applicant and the Department of the Treasury's Net Present Value Model Parameters, the reasons the servicer's program is unable to achieve an aggregate debt-to-income ratio of 38% or less, and a description of any additional features in the program to be considered by the Commissioner. The application provides that exhibits 1, 4 and 5 are confidential, and requires the application to be signed under penalty of perjury by a specified control person.

Subarticle 4 consists of Section 2850.10, entitled "Reports." This section provides that upon request of the Commissioner, a servicer shall report loan modification data to the Commissioner on a quarterly basis. The section further incorporates by reference a form for quarterly reporting, entitled Foreclosure Prevention Loan Modification Data, and dated November 25, 2009. The section provides that a servicer may request a hardship exemption from the Commissioner, and provides that the Commissioner may accept a report required by a federal loan modification program, in lieu of the report required in this section.

AUTHORITY

Sections 2923.52 and 2923.53, Civil Code.

REFERENCE

Sections 2923.52 and 2923.53, Civil Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation(s). A request for a copy of any modified regulation(s) should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulation(s) for 15 days after the date on which they are made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from the Sacramento offices of the Department. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. These documents are also available at the Department's website at www.dre.ca.gov. As required by the Administrative Procedure Act, the Department's Sacramento Legal Office maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Real Estate, 2201 Broadway, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the

attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

- Cost or savings to any state agency: The Department has determined that the implementation of the California Foreclosure Prevention Act will have an estimated cost of \$120,000 to the Department. This cost represents the cost of implementing and administering the statutory California Foreclosure Prevention Act, including the adoption of regulations, development of procedures and information technology applications, acceptance of applications, review and approval of applications, data collection and reporting. While this cost is attributable to the implementation of the act, it is not necessarily attributable to this rulemaking action.
- Direct or indirect costs or savings in federal funding to the state: none.
- Cost to local agencies and school districts required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: none.
- Other nondiscretionary costs/savings imposed on local agencies: none.
- Costs to private persons or businesses directly affected: The Department has determined that the cost to directly affected businesses that seek to submit an application for an order of exemption under the California Foreclosure Prevention Act may be up to \$5000 in one time costs for the application, and may be up to \$5000 a year if reporting is required.

BUSINESS REPORTING REQUIREMENT

The Commissioner finds that it is necessary for the health, safety, or welfare of the people of this state that this regulation that requires a report apply to businesses.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not impose a mandate on local agencies or school districts, or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with

Section 17500) of Division 4 of the Government Code.

- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department has determined that the cost to directly affected businesses that seek to submit an application for an order of exemption under the California Foreclosure Prevention Act may be up to \$5000 in one time costs for the application, and may be up to \$5000 a year if reporting is required.

EFFECT ON SMALL BUSINESS

The proposed regulatory changes may affect small business.

CONTACT PERSON

Inquiries concerning this action may be directed to Daniel Kehew at (916) 227-0425, or via email at DRERegulations@dre.ca.gov. The backup contact person is Mary Clarke at (916) 227-0780.

TITLE 16. STATE BOARD OF GUIDE DOGS FOR THE BLIND

NOTICE IS HEREBY GIVEN that the State Board of Guide Dogs for the Blind (hereinafter "board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held on **February 8, 2010 at 1625 N. Market Blvd., Trinity Room (S-307), Sacramento, CA 95834 at 9:00 a.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the board at its office no later than February 8, 2010 or must be received by the board at the hearing. The board, upon its own motion or at the instance of any interested party, may there-

after adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 7208 and 7210.7 of the Business and Professions Code, and to implement, interpret or make specific Sections 7200.7 and 7210.7 of said Code, the board is considering changes to Division 22 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 7200.7, as modified by SB 475 (Chapter 51, Statutes 2009), gives the board the authority to set a school renewal payment via regulation. Business and Professions Code section 7208 authorizes the board to govern the operation of schools which furnish guide dogs and train blind persons to use guide dogs.

1. Adopt section 2262.1.

Effective January 1, 2010, Business and Professions Code section 7200.7 mandates the board adopt via regulation the amount a guide dog school pays the Guide Dogs for the Blind Fund for the renewal of a school license. Effective January 1, 2010, the law requires payment by April 30 for school renewals.

This regulation would set the fee in regulation. In particular, section 2262.1 would prescribe the amount each guide dog school pays to the board annually to be 0.00425 of their total annual expenses.

2. Amend section 2276.

Existing law authorizes the board to govern the operation of schools and instructors. Existing regulations specify that each school provide a minimum of 80 hours of instruction over a four week period except for those persons who have previously received such instruction who are only required to receive a minimum of 40 hours over a two week period. The current regulation also prescribes a maximum number of hours of training during each time frame. The proposed regulations would amend the hours of training, time frame and circumstances when training may stop, and where the training may occur.

As proposed, the amendments to 2276 would accomplish four things: one, divide the type of training into two categories, in-harness and theory; two, the mini-

um number of training hours would be reduced and the time frames—within which to give the training hours—would be reduced; three, individualized training provided to the client and when training may cease; four, instruction may be conducted in the most appropriate venue which may either be in-residence (at the school), at home, or a combination of both. The changes will also align the board's standards more closely with international training standards.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The guide dog schools would be impacted by the slight increase in fees to the board. The schools/instructors may save money on client training — allowing fewer hours.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations would not affect small businesses because the affected guide dog schools are non-profit organizations.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the State Board of Guide Dogs for the Blind at 1625 N. Market Blvd., Suite S 202, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Antonette Sorrick, Executive
Officer
Address: 1625 N. Market Blvd., Suite
S-202
Sacramento, CA 95834
Telephone No.: (916) 574-7825
Fax No.: (916) 574-7829
E-Mail Address: antonette_sorrick@dca.ca.gov

Name: Cynthia Cummings, Acting
Executive Assistant
Address: 1625 N. Market Blvd., Suite
S-308
Sacramento, CA 95834
Telephone No.: (916) 574-7386
Fax No.: (916) 574-7829
E-Mail Address: Cynthia_cummings@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.guidedogboard.ca.gov.

TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs, in the Hearing Room, First Floor, 2005 Evergreen Street, Sacramento, CA 95815 at 10:15 a.m., on February 11, 2010.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on February 8, 2010, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 2570.20 of the Business and Professions (B&P) Code, and to implement, interpret or make specific B&P Code Sections 2570.2 and 2570.3, the Board is proposing to revise Division 39, Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law requires an occupational therapist to complete post professional education and supervised on-the-job training in order to provide treatment to clients in the advanced practice areas of hand therapy, physical agent modalities, or swallowing assessment, evaluation, and intervention. Advanced practice approval is granted once a licensee demonstrates competence to the Board.

Amend Section 4150(c). The proposed language amends §4150(c) by modifying the current definition of post-professional education "contact hours" from fifty (50) minutes to sixty (60) minutes by making this definition consistent with current continuing competency activities and industry-accepted standards.

Amend Section 4150 by adding subsection (g). This added language clarifies the post–professional education requirements set forth in Section 2570.3(e)(1). The term “upper extremity” is used to identify a requirement for post–professional education required for hand therapy. This language specifies that the term “upper extremity” refers to courses “related to hand, wrist and forearm”, and further clarifies Section 2570.3.

Amend Section 4151(a)(1) by requiring the applicant to complete a minimum of 30 contact hours of the required post–professional education include courses specific to the rehabilitation of the hand, wrist and forearm. This amendment further clarifies the proposed amendment to Section 4150(g).

Amend Section 4152.1(b)(2) by adding language to clarify that only occupational therapists who are approved by the Board in the area of physical agent modalities may administer medication by the use of a physical agent modality.

Amend Section 4152.1(2) by adding subsection (c) to prohibit all occupational therapists or occupational therapy assistants from administering medication by injection.

Amend Section 4153(b)(2) to replace the term “certified” with the term “approved” to make consistent throughout Article 6.

Amend Section 4154 by deleting subsection (b) that restricts post–professional training to be conducted in specified clinical facilities. The deletion of the current language eliminates these restrictions.

Amend Section 4154(b) by adding new language that requires post–professional training be supervised. Existing requirements contained in Sections 4154(1), requiring a written agreement outlining a plan of supervision and training remains unchanged. This section is also re–numbered for internal continuity.

Amend Section 4155 as follows:

- requires submission of an application, as specified in section 4155(a)(1), (2), and (3) and replaces the term “portfolio” with the term “documentation”;
- adding Sections 4155(a)(1), (2) and (3) to identify the application form that must be submitted, specific to the advanced practice area;
- adding language to Section 4155(b)(1) that clarifies the documentation required to prove the completion of post–professional education courses;
- adding language to Section 4155(b)(2) to specify that evidence of the number of contact hours completed is only required for courses that are not approved by the Board;
- adding language to Section 4155(b)(3) to specify that an outline or course syllabus is only required for courses that are non–Board approved;

- adding Section 4155(b)(4) requiring that the applicant submit detailed information concerning each course submitted with the advanced practice application form relating to the advanced practice area
- re–numbering Section 4155(a)(4) to Section 4155(a)(5) for internal continuity;
- delete Section 4155(a)(5) requiring applicants to submit “statements of learning.”

The new application forms referred to in section 4155 are incorporated by reference and can be found as exhibits in the rule–making file and are available on the Board’s website or upon request. The applications are: Application for Advanced Practice Approval in Hand Therapy (Form APH, Rev. 10/09), Application for Advanced Practice Approval in Physical Agent Modalities (Form APP, Rev. 10/09), and the Application for Advanced Practice Approval in Swallowing (Form APS, Rev. 10/09).

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non–discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the adoption of this regulation would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

None. These amendments only relate to the applicants who apply for advanced practice approval and define and clarify the documentation required to submit to the Board for review and evaluation. There is no increased cost to the applicants.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not impact small businesses because the regulations do not regulate, benefit or harm small businesses and do not require reports or any other compliance activities of small businesses.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons that sets forth the reasons for the proposed action and has all the information upon which the proposal is based.

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing, from our website as listed below, or upon written request from the contact person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Jim Schenk
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263-2294
(916) 263-2701 (FAX)
cbot@dca.ca.gov

The backup contact person is:

Heather Martin
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263-2294
(916) 263-2701 (FAX)
cbot@dca.ca.gov

Website Access: All materials regarding this proposal can be found on-line at www.bot.ca.gov > **Laws and Regulations** > **Proposed Regulations**.

TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs, Hearing Room — First Floor, 2005 Evergreen Street, Sacramento, CA 95815, on February 11, 2010, at 10:00 a.m. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on February 8, 2010, or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the action substantially as described below or may modify such action if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified action will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the action.

Authority and Reference: Pursuant to the authority vested by section 2570.20 of the Business and Professions Code (BPC), and to implement, interpret or make specific section 2570.10, the Board is proposing to revise Division 39, Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend CCR Section 4123(a) and add Section 4123(a)(2):

Existing law, BPC 2570.5, allows occupational therapist and occupational therapy assistant applicants to apply for a limited permit, which allows the practice of occupational therapy while waiting to take the required examination for the first time or awaiting the examination results.

However, if that applicant does not take the examination within the designated timeframe or fails the examination, all practice privileges under this section cease. Currently, the applicant can decide when, and if, the Board is notified of their examination results. This amendment to Section 4123(a) requires an applicant to request their examination score be forwarded from the National Board for Certification in Occupational Therapy, Inc. (NBCOT) to the Board.

The proposed language in Section 4123(a)(2) requires the applicant to provide the Board with evidence that he/she has requested NBCOT provide their examination score results to the Board before a limited permit may be issued to them. The addition of the proposed Section 4123(a)(2) requires renumbering of the remaining subsections for continuity.

Add Section CCR Section 4125:

Existing law, BPC 2570.18 specifies that a person shall not represent to the public by title, by description of services, methods, or procedures, or use certain specified professional abbreviations, unless licensed by the Board.

The proposed language would clarify that the use of specified initials or titles, requires current licensure as an occupational therapist or occupational therapy assistant and current registration with NBCOT.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None

Business Impact: The Board has made an initial determination that the adoption of this regulation would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

THE FOLLOWING STUDIES/RELEVANT DATA WERE RELIED UPON

See the INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW above.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

There is no impact on private business or representative private persons, except to clarify licensee representations that demonstrate professional qualifications of occupational therapy practitioner(s) to be in a manner inconsistent with the public health, safety or welfare. The only impact on private business or representative private persons is beneficial.

EFFECT ON HOUSING COSTS

None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not impact small businesses because the regulations do not regulate, benefit or harm small businesses and do not require reports or any other compliance activities of small businesses.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed, or be as effective as and less burdensome to affected private persons than the proposal described in this Notice.

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons that sets forth the reasons for the proposed action and has all the information upon which the proposal is based.

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be

obtained from our website as listed below or upon written request from the contact person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Board's website as listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Jim Schenk
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263-2294 (TEL) or (916) 263-2701 (FAX)
cbot@dca.ca.gov

The backup contact person is:

Heather Martin
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263-2294 (TEL) or (916) 263-2701 (FAX)
cbot@dca.ca.gov

Website Access: All materials regarding this proposal can be found on-line at www.bot.ca.gov > **Laws and Regulations** > **Proposed Regulations**.

TITLE 16. BOARD OF PHARMACY

NOTICE IS HEREBY GIVEN that the Board of Pharmacy is proposing to take the action described in the Informative Digest. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Pharmacy at its office not later than 5:00 p.m. on February 15, 2010.

The board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board office not later than 5 p.m. on February 1, 2010.

The Board of Pharmacy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference. Pursuant to the authority vested by Section 4005 of the Business and Professions Code, and to implement, interpret or make specific Sections 490, 4036, 4200.5, 4207, 4301, 4301.5, 4311 and 4400, of said Code and Sections 11105(b)(10) and 11105(e) of the Penal Code, the Board of Pharmacy is considering changes to Division 17 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The board proposes to add section 1702 to Title 16 of the California Code of Regulations. This proposed regulation pertains to the mandatory submission of fingerprints to the Department of Justice (DOJ) for state and federal level criminal offender record information search and the ability of the board to bring disciplinary action against a licensee that fails to comply with the fingerprinting requirement.

Business and Professions Code (BPC) Section 144 requires an applicant to furnish to specified agencies, including the California State Board of Pharmacy (Board), a full set of fingerprints for the purpose of conducting criminal history record checks. Additionally, this section allows the Board to obtain and receive criminal history information from the Department of Justice (DOJ) and the United States Federal Bureau of Investigation (FBI).

The fingerprinting of applicants allows the Board a mechanism to enhance public protection by conducting a more thorough screening of applicants for possible licensure. A pharmacist licensed prior to January 1, 2001 was not routinely required to submit fingerprints to the Board for purposes of securing a background check by the United States Federal Bureau of Investigation (FBI). This proposed regulation would require all Board licensees for whom an electronic record of his or her fingerprints does not exist in the DOJ's criminal offender record identification database to successfully complete a state and federal level criminal offender record information search conducted through the DOJ. Requiring all pharmacists licensed prior to January 1,

2001, to submit fingerprints for processing during their next renewal will ensure that the Board receives timely notification of any arrest(s) or conviction(s) from the DOJ in the future.

Specifically this regulation would:

- Require all pharmacist applicants for renewal on or after the effective date of this regulation who has not previously submitted fingerprints to the FBI or for whom an electronic record of the submission of the fingerprints does not exist with DOJ, to complete a state and federal level criminal offender record information search conducted through the DOJ before his or her license renewal date. The purpose of this provision is to ensure the Board receives criminal background and subsequent conviction information on pharmacists in order to protect the public from unprofessional practitioners and fully implement the Board's mandate (BPC Sections 4301, 4301.5) to enforce the unprofessional conduct statutes of Board licensing law.
- Provides that a revoked pharmacist license may not be reinstated until the applicant has submitted fingerprints for a criminal records search conducted through DOJ. This provision is in addition to any other conditions of reinstatement as determined by the board. The purpose of this provision is to make certain that all licensees, irrespective of licensure status, meet the fingerprinting requirements set forth in this regulation before resuming practice with the public.
- Require a pharmacist applicant to pay the actual cost of compliance with the fingerprinting requirement.
- Exempts from the requirements of this proposed regulation pharmacists actively serving in the United States military. The purpose of this provision is to allow those licensees not in active practice to only meet the requirement before returning to active practice with the public.
- Requires licensees to retain for at least three years either a receipt showing that he or she has electronically transmitted his or her fingerprint images to DOJ, or for those licensees who did not use an electronic fingerprinting system, a receipt evidencing that the licensees or registrants fingerprints were taken. The purpose of this provision is to permit the pharmacist to demonstrate compliance with the fingerprinting requirement in the event that fingerprint submissions are not processed correctly by DOJ.

- Require a pharmacist, as a condition of renewal, to disclose on the renewal form any arrest or conviction information, as specified, since the licensee's last renewal.
- Specifies that failure to comply will result in the application for renewal being considered incomplete and that an inactive pharmacist license will be issued in lieu of an active pharmacist license.

Business and Professions Code section 4001.1 states that the "protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." The purpose of the proposed regulatory changes is to ensure that the Board upholds its mandate to protect the public in accordance with this section. In order to protect the public from incompetent, unethical and unprofessional practitioners, it is necessary for the Board to be informed of past and current criminal convictions that are substantially related to the qualifications, functions, or duties of their professional service for which they are licensed. The unprofessional conduct statutes of Board licensing law (BPC 4301, 4311) allows the board to deny a license or suspend or revoke a license for unprofessional conduct, including the conviction of a crime substantially related to the qualifications, functions or duties of a licensee. In order to fully implement the unprofessional conduct statutes that require the Board to discipline a licensee that has been convicted of a crime substantially related to the qualifications, functions, or duties of their profession the Board must receive notice of and all information related to those criminal convictions.

FISCAL IMPACT

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The board estimates a cost of about \$35,000 annually beginning in FY 2010/11.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Business Impact: The board has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of

California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

There would be no costs to businesses to comply with this regulation. Any costs associated with this proposed regulation would only affect pharmacists for whom an electronic record of his or her fingerprints does not exist in the DOJ criminal offender record identification database and those licensees that do not comply with the proposed regulation.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The current processing fees associated with LiveScan fingerprinting are \$32.00 for DOJ and \$24.00 for FBI, with some Live Scan agencies charging additional fees for “rolling” fingerprints and/or administrative processing. Applicants are responsible to pay all fees associated with the fingerprint process. The board estimates that there are approximately 15,770 pharmacists that have not submitted electronic fingerprints through the DOJ. These pharmacists will be required to complete a state and federal level criminal offender record information search through DOJ in order to have an electronic record in the DOJ database.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. This proposed regulation would only affect individuals for whom an electronic record of his or her fingerprints does not exist in the DOJ criminal offender record identification database and those licensees and registrants that do not comply with the proposed regulation.

There are approximately 750 vendors statewide who provide fingerprinting services. There should be no initial or ongoing cost impact upon the vendors because they are already equipped to provide the service and the fingerprinting requirement will be staggered and extended over the licensees’ renewal periods (biennial cycle).

CONSIDERATION OF ALTERNATIVES

The Board of Pharmacy must determine that no reasonable alternative it considered to the regulation or

that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present written statements relevant to the above determinations to the Board of Pharmacy at the above-mentioned address.

INITIAL STATEMENT OF REASONS
AND INFORMATION

The Board of Pharmacy has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board of Pharmacy at 1625 N. Market Blvd., N219, Sacramento, California 95834, or from the Board of Pharmacy’s Web site (www.pharmacy.ca.gov).

AVAILABILITY AND LOCATION OF
THE FINAL STATEMENT OF REASONS
AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Board of Pharmacy’s Web site (www.pharmacy.ca.gov).

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Anne Sodergren
Address: 1625 N. Market Blvd., N219
Sacramento, CA 95834
Telephone No.: (916) 574-7910
Fax No.: (916) 574-8618
E-Mail Address: anne_sodergren@dca.ca.gov

The backup contact person is:

Name: Carolyn Klein
Address: 1625 N. Market Blvd., N219
Sacramento, CA 95834
Telephone No.: (916) 574-7913
Fax No.: (916) 574-8618
E-Mail Address: carolyn_klein@dca.ca.gov

Website Access. Materials regarding this proposal can be found at www.pharmacy.ca.gov.

TITLE 16. CONTRACTORS STATE LICENSE BOARD

DEPARTMENT OF CONSUMER AFFAIRS

NOTICE IS HEREBY GIVEN that the Contractors State License Board (CSLB) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Contractors State License Board, 9821 Business Park Drive, Sacramento, California 95827 at 1 p.m. on Thursday, February 11, 2010. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by CSLB at its office not later than 5:00 p.m. on February 11, 2010, or at the hearing. CSLB, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such pro-

posals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference Citations: Pursuant to the authority vested by Sections 7008 of the Business and Professions (B&P) Code, and to implement, interpret or make specific Sections 7137 of said Code, CSLB is considering changes to Division 8 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 811 — Fees.

B&P Code Section 7008 authorizes CSLB to adopt rules and regulations, in accordance with the Administrative Procedures Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Further, B&P Code Section 7137 specifies that CSLB may charge licensing fees and requires CSLB to set the level of those fees by regulation not to exceed specified amounts.

This proposal would amend the existing regulation by increasing the following licensing and examination fees charged by CSLB, starting on July 1, 2011:

Fee	Current Amount	Proposed Amount	Proposed Increase
Application for Original Contractor's License	\$250.00	\$300.00	\$50.00
Application to Add a Supplemental Classification or to Replace the Responsible Managing Officer or Employee on an Existing License	\$50.00	\$75.00	\$25.00
Rescheduling an Examination	\$50.00	\$60.00	\$10.00
Initial License Fee	\$150.00	\$180.00	\$30.00
Renewal — Contractor's License (Biennial)	\$300.00	\$360.00	\$60.00
Renewal — 4-Year Inactive License	\$150.00	\$180.00	\$30.00
Reactivate Contractor's License	\$300.00	\$360.00	\$60.00
Home Improvement Salesperson (HIS) Registration Fee	\$50.00	\$75.00	\$25.00
Asbestos Certification Fee	\$50.00	\$75.00	\$25.00
Hazardous Substance Removal Certificate	\$50.00	\$75.00	\$25.00
Delinquent Renewal — Contractor's License ¹	\$150.00	\$180.00	\$30.00
Delinquent Renewal — 4-Year Inactive License ¹	\$75.00	\$90.00	\$15.00
Delinquent Renewal — HIS Registration ¹	\$25.00	\$37.50	\$12.50

¹ Delinquent renewal fees are not included in the proposed regulation because B&P Code Section 7137 (f) sets the delinquency fee as a percentage of the applicable renewal fee:

“The delinquency fee is an amount equal to 50 percent of the renewal fee, if the license is renewed after its expiration.”

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: CSLB would incur special-fund costs from implementing the increased fees as a result of updating notices and publications that list its licensing fee schedule. These updates would require programming changes for computer-generated forms and revising a small number of print publications. These costs are anticipated to be minor and absorbable by CSLB (totaling no more than \$50,000). CSLB revenue from contractor licensing fees would increase by an average of \$10.2 million per fiscal year starting in FY 2011/12.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: The proposed regulatory action does not impose a mandate on local agencies or schools.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

CSLB has made an initial determination that the proposed regulatory action would have no significant state-wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. In making this determination, CSLB relied on the fact that, under the revised regulatory language, licensees would be required to pay only \$60 in additional renewal fees every two years.

Impact on Jobs/New Businesses:

CSLB has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to CSLB are only those costs that must be borne by applicants for licensure as contractors or by licensed contractors renewing their licenses or applying for additional classifications as described in the Informative Digest.

Effect on Housing Costs: No significant effect.

EFFECT ON SMALL BUSINESS

CSLB has determined that the proposed regulations would affect small businesses that are subject to the payment of licensure fees under the chapter.

CONSIDERATION OF ALTERNATIVES

CSLB must determine that no reasonable alternative is considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

CSLB has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from CSLB at 9821 Business Park Drive, Sacramento, California 95827, or by accessing the website at www.cslb.ca.gov.

**AVAILABILITY AND LOCATION OF
THE FINAL STATEMENT OF REASONS
AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which

is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Jonathan Buttle
Address: 9821 Business Park Drive
Sacramento, CA 95827
Telephone No.: (916) 255-1953
Fax No.: (916) 364-0130
E-Mail Address: jbuttle@cslb.ca.gov

The backup contact person is:

Name: Betsy Figueira
Address: 9821 Business Park Drive
Sacramento, CA 95827
Telephone No.: (916) 255-3369
Fax No.: (916) 255-6335
E-Mail Address: bfigueira@cslb.ca.gov

Website Access: Materials regarding this proposal can be found at www.cslb.ca.gov.

**TITLE 25. DEPARTMENT OF
HOUSING AND COMMUNITY
DEVELOPMENT**

**NOTICE OF PROPOSED RULEMAKING
FOR THE FEDERAL HOMELESSNESS
PREVENTION AND RAPID-
REHOUSING PROGRAM
Subchapter 12.5
Commencing with Section 7980**

Notice is hereby given that the Department of Housing and Community Development (Department) proposes to adopt regulations governing the Homelessness Prevention and Rapid Re-Housing Program ("HPRP") administered by the federal Department of Housing and Urban Development ("HUD"). The purpose of these regulations is to establish policies and procedures for the administration of the HPRP Standard Agreements. These regulations apply to all parties to a Standard Agreement entered into with the Department for receipt and administration of HPRP funds.

The State of California allocation of HPRP funds was administered by the Department of Housing and Community Development (HCD) pursuant to emergency regulations published in Title 25 of the California Code

of Regulations commencing with section 7980. The emergency regulations became effective September 8, 2009, and will remain in effect through March 9, 2010, unless extended or superseded by formally-adopted regulations.

The text of the proposed regulation amendments, along with related documents, is available on the Department's web site (www.hcd.ca.gov).

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period begins December 25, 2009 and closes at 5:00 p.m. on February 8, 2010. The Department will consider comments received during this time-frame. Please address your comments to Lenora Frazier at lfrazier@hcd.ca.gov. Comments can also be sent via mail to Department of Housing and Community Development, Legal Affairs Division, P.O. Box 952052, Sacramento, California 94252-2052 or via fax to (916) 323-2815 attention: Lenora Frazier.

PUBLIC HEARINGS

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m. on January 25, 2010, fifteen (15) days prior to the close of the written comment period.

AUTHORITY AND REFERENCE

The Department is conducting this rulemaking activity under the authority provided by Health and Safety Code (H&S) Sections 50406(h), 50406(i), 50406(n) and 50407 Health and Safety Code. Reference: Public Law 111-5 (American Recovery and Reinvestment Act of 2009), Sec. 2, Div. A, Title 12.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action establishes a homelessness prevention program using federal funds made available under the American Recovery and Reinvestment Act of 2009. The HUD allocation of HPRP funds was a one-time allocation. The HUD Notice required that all

HPRP funds be committed no later than September 30, 2009. HCD conducted an application and award process pursuant to emergency regulations. All HPRP funds have been awarded and all HPRP grant contracts (known as "Standard Agreements") executed. There are no more HPRP funds to be awarded. For this reason, HCD is not proposing to formally adopt sections of the emergency regulations governing the application for an award of HPRP funds. HCD will allow these sections to automatically expire. The proposed regulations describe monitoring and accountability requirements; and subgrantee requirements.

Section 7980. Purpose and Scope — This section provides a statement of the program regulations' authority, purpose and general activities; and notifies applicants that all HPRP funds are subject to the provisions of the HUD Notice.

Section 7980.1. Definitions — This section provides the definitions of key terms used throughout the body of regulations. These definitions are descriptive, are adopted in order to shorten the text of the regulations, and for ease of reference.

Section 7980.2. Drawdown of Funds and Financial Management — The purpose of this section is to establish the process for requesting HPRP funds from the Department.

Section 7980.3. Record Keeping and Reporting Requirements — The HUD Notice and ARRA contain various record keeping and reporting requirements that must be followed by the Department as the HPRP grantee, and by successful applicants termed "subgrantees." The purpose of this section is to notify applicants of the record keeping and reporting obligations that come with the acceptance of HPRP funds.

IMPACT OF PROPOSED REGULATIONS

The program regulations are designed to provide federal funding to address the States homeless populations.

AFFECT ON SMALL BUSINESS

The proposed regulations do not affect small businesses, because the regulations do not mandate or require small businesses to take any prescribed action, and it has no financial impact on small businesses.

LOCAL MANDATE

Federal Law mandates most of the requirements in these proposed regulations. Moreover, the Department has determined that these regulations do not impose a mandate on local agencies or school districts, and participation in the program is voluntary.

FISCAL IMPACT

The Department has determined that no savings or increased costs to any State agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in Federal funding to the State will result from the proposed action. Participation in the program is voluntary. The State's share of HPRP funds is determined by HUD by a formula. The HUD Notice permits the state to recoup its costs for administering the program.

AFFECT ON HOUSING COSTS

The Department has determined that the proposed action has no significant impact on housing costs on a state-wide basis. HPRP funds may be used for housing vouchers and in that way will reduce the housing costs of individual families.

**INITIAL DETERMINATION OF STATEWIDE
ADVERSE ECONOMIC IMPACT DIRECTLY
AFFECTING BUSINESSES**

The Department has made an initial determination that the proposed action will not have a significant state-wide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

ASSESSMENT STATEMENT

The Department has determined that the regulations will not significantly affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California. In any case, participation in the program would be voluntary.

**STATEMENT OF POTENTIAL COSTS
IMPACT ON PRIVATE PERSONS AND
BUSINESS DIRECTLY AFFECTED**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. While private businesses (including non-profits) and individuals are eligible to receive program funds under the program, participation is voluntary.

CONSIDERATION OF ALTERNATIVES

The Department of Housing and Community Development must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF TEXT OF PROPOSED
REGULATIONS AND STATEMENT OF REASONS**

The text of the proposed regulations, along with the Initial Statement of Reasons prepared by the Department, which provides the reasons for the proposals, is available on the Department's web site, at www.hcd.ca.gov. All information the Department is considering as a basis for this proposal is maintained in a rulemaking file, which is available for inspection at the address noted below. Copies can be obtained by contacting Lenora Frazier at the address and telephone number noted below.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

Following the written comment period, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text—with changes clearly indicated—available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Lenora Frazier at the address indicated below. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below.

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

At the conclusion of this rulemaking, a Final Statement of Reasons will be prepared as required by Government Code section 11346.9. This document will be available from the contact person named below.

CONTACT INFORMATION PERSON

HCD: **Lenora Frazier**
(916) 323-7288

HCD Back-Up: **Dennis Beddard**
(916) 323-7288

HCD Address: **Department of Housing and
Community Development**
1800 Third Street,
Room 440
Sacramento, California
95814

HCD Website: Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations may be accessed through our website at **www.hcd.ca.gov**

HCD Facsimile No: (916) 323-2815

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period. Direct inquiries concerning the substance of the proposed rulemaking action and any requests for the documents noted above should be made to Lenora Frazier at the following address:

**California Department of Housing and
Community Development**
Attention: Lenora Frazier
P.O. Box 952052
Sacramento, California 94252-2052
Telephone (916) 323-7288
Fax (916) 323-2518
lfrazier@hcd.ca.gov

**TITLE MPP. DEPARTMENT OF
SOCIAL SERVICES**

**NOTICE OF PROPOSED CHANGES IN
REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL
SERVICES (CDSS)**

**ITEM #1 Intercounty Transfer Changes in the
CalWORKs Program**

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held February 10, 2010, as follows:

February 10, 2010
Office Building #8
744 P St., Room #105
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on February 10, 2010.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Office of Regulations Development
California Department of Social Services
744 P Street, MS 8-4-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586
FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

California Department of Social Services, Manual of Policies and Procedures, Eligibility and Assistance Standards, Division 40 (Reception and Application), Chapter 40–100 (General), Section 40–188 (Transfer Procedure).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Work Opportunity and Responsibility to Kids (CalWORKs) Program requires County Welfare Departments (CWDs) to initiate an Intercounty Transfer (ICT) of a case when an eligible family moves from one county to another within California. ICTs are intended to ensure a seamless transition of aid from one county to another in which the family's benefits are not interrupted. CalWORKs regulations require that the family attend a face-to-face interview in the second county in order for that county to ensure that the family continues to remain eligible for benefits.

Under existing regulations, the second county in an ICT process redetermines the eligibility of the transferring family, because the family's circumstances have changed as a result of relocation. The process is similar to the annual redetermination process. And, although the ICT process requires that the receiving county conduct a face-to-face interview with the family and review their completed application, the CWD does not treat the family as an applicant family.

These proposed regulations will exempt non-needy caretaker relatives who are receiving CalWORKs program benefits on behalf of a child who is a dependent of the court from the requirement of a face-to-face interview in their new county of residence when the family moves from one county to another. These proposed regulations will also require CWDs to verify that the relative has been appropriately approved to care for the child, and is not receiving CalWORKs benefits for him or herself.

COST ESTIMATE

1. Costs or Savings to State Agencies: No additional costs or savings because this regulation makes only technical, nonsubstantive or clarifying changes to current laws and regulations.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500–17630: None.

3. Nondiscretionary Costs or Savings to Local Agencies: No additional costs or savings because this regulation makes only technical, nonsubstantive or clarifying changes to current laws and regulations.
4. Federal Funding to State Agencies: No additional costs or savings because this regulation makes only technical, nonsubstantive or clarifying changes to current laws and regulations.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. No reimbursement is required by this regulation pursuant to Section 6 of Article XIII B of the California Constitution because this regulation provides for offsetting savings to local agencies or school districts that result in no net cost to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 10553 and 10554, Welfare and Institutions Code. Subject regulations implement and make specific Section 11052.6, Welfare and Institutions Code.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Everardo Vaca (916) 657-2586
Backup: Robin Garvey (916) 657-2586

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game — Public Interest Notice For Publication December 25, 2009 PROPOSED RESEARCH ON FULLY PROTECTED SPECIES

Conducting Ecological Investigations on the “Ring-tailed cat” (*Bassariscus astutus*)

The Department of Fish and Game (“Department”) received a proposal in 2003, and again in 2009, from Mr. David T. Wyatt, requesting renewal of his prior authorization to take the Ring-tailed cat (*Bassariscus astutus*), a Fully Protected Mammal, for research purposes, consistent with the protection and recovery of the species. Mr. Wyatt has been conducting ecological studies on ringtails for over 10 years.

The applicant is currently applying for renewal of his required Scientific Collecting Permit (SCP) to take protected species of wildlife. Permit conditions require that the holder of an SCP obtain special authorization from

the Department for research on Fully Protected species. The proposed activities include the following, to be conducted from 2009 through 2011: 1) Continue an ongoing (since 1987) ecological study of ringtails including live-capture with walk-in, baited cage traps, short-term tranquilization, attachment of small ear tags, measuring of standard body dimensions, collection of ectoparasites, collection of tissue samples (blood, cheek swabs, and ear punches), and release at the live capture site. Radio-marking studies may occur during this period if funding becomes available. The research will occur in various counties of California, primarily in Sutter County, Stanislaus County, and San Bernardino County. The research may continue for at least five years beyond 2011, as permitted by the Department, and may involve some recapture to ascertain changes in physical condition of recaptured ringtails.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) or letter permit that would authorize the applicant, as Principal Investigator, to carry out the proposed activities. This MOU/permit would be similar to an MOU entered into between the applicant and the Department for the last several years.

Pursuant to California Fish and Game Code (FGC) Section 4700(a)(1), the Department may authorize take of Fully Protected Mammals after 30 days notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 4700 for take of Fully Protected Mammals, it would issue the authorization on or after January 25, 2010, for an initial term of five years. Contact: Wildlife Branch, 1812 Ninth Street, Sacramento, CA 95811, Attn: Esther Burkett.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game — Public Interest Notice For Publication December 25, 2009 PROPOSED RESEARCH ON FULLY PROTECTED SPECIES

Monitoring and research of California clapper rail
and California black rail

The Department of Fish and Game (“Department”) has received a proposal from Ms. Mary Anne Flett, of Point Reyes Station, requesting authorization to take California clapper rail (*Rallus longirostris obsoletus*), and California black rail (*Laterallus jamaicensis coturniculus*), which are Fully Protected birds, for survey purposes, consistent with the protection and recovery of the species. The applicant is required to have a Scientif-

ic Collecting Permit (SCP) to take a protected species of bird. Permit conditions require that the holder of an SCP obtain special authorization from the Department for research on Fully Protected species.

Ms. Flett is planning to conduct call playback surveys while performing presence/absence surveys throughout the range of each species. No adverse effects on individuals or populations are expected. Work would initially occur throughout counties within the greater San Francisco Bay and Estuary area. Additional locations may be added with Department authorization.

Alteration and isolation of habitats resulting from urbanization is the principal reason for the decline of these rails. Effective management efforts and species recovery requires a thorough understanding of the distribution of these species. Tasks listed in the federal Salt Marsh Harvest Mouse and California Clapper Rail Recovery Plan (1984) may benefit from the issuance of this permit, as this research may help to: determine the distribution and size of clapper and black rail populations around the San Francisco Bay and Estuary; predict impacts of climate change and sea level rise on clapper and black rails and their marsh habitat; avoid potential impacts from invasive *Spartina* removal or construction projects if rails are known to be present; and to assess whether rails re-populate or expand into habitat in restored wetlands.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) that would authorize the applicant, as the Principal Investigator, to carry out the proposed activities. As the clapper rails are also federally endangered species, applicants are required to possess a valid Federal Threatened and Endangered Species permit. The applicant has applied for this permit.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected bird species after 30 days notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after January 25, 2010, for a term of two to three years. The Department may extend the term of the permit. Contact: Esther Burkett, eburkett@dfg.ca.gov, 916-445-3764.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication December 25, 2009
PROPOSED RESEARCH ON FULLY
PROTECTED SPECIES

Recovery Actions for California Least Tern
(*Sternus antillarum browni*)

The Department of Fish and Game ("Department") received a proposal on December 31, 2008, revised on February 24, 2009, from John N. Todd, requesting authorization to take (capture, take standard measurements, band, and relocate) peregrine falcons (*Falco peregrinus*), for the purpose of assisting with recovery of California least terns (least tern), also Fully Protected birds. The Department also received a research proposal on December 4, 2009, requesting authorization to band, collect tissue samples from, mark, and release resident peregrine falcons adjacent to least tern colonies.

Lee Aulman and Paul Andreano would assist with this work. The applicants are in the process of obtaining the required Scientific Collecting Permits (SCP). Permit conditions require that the holder of an SCP obtain special authorization from the Department for research on Fully Protected species. The proposed activities include capturing with standardized methods authorized by the Department. It is not anticipated that capture, handling, measuring, banding, marking, taking tissue samples, or relocating will have any adverse effects on peregrine falcons, nor is it anticipated that this activity will have any adverse effect on the least terns. The work would initially occur in Vandenberg Air Force Base, Santa Barbara County, but other locations may be authorized by the Department.

Banding peregrine falcons with both U.S. Fish and Wildlife Service bands and color bands for future monitoring, as well as banding other potential predators of the tern, will allow biologists and the Department to make informed decisions as they relate to actual and potential predation on least terns. This research is consistent with the protection and recovery of the least tern, in that it helps to identify and assess threats from predators, and is consistent with the protection of the per-

egrine falcon. The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) that would authorize the applicant to carry out the proposed activities.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected Birds after 30 days notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after January 25, 2010, for an initial term of two to three years. The term may be extended with Department authorization. Contact: Wildlife Branch, 1812 9th Street, Sacramento, CA 95811, Attn.: Carie Battistone.

DEPARTMENT OF HEALTH CARE SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

THE DEPARTMENT OF HEALTH CARE SERVICES IS PROPOSING SUPPLEMENTAL PAYMENTS FOR PUBLICLY OWNED OR OPERATED CLINICS PROVIDING SERVICES TO MEDI-CAL BENEFICIARIES

This notice is to provide information of public interest with respect to supplemental payments that are proposed to be made to specified public freestanding, non hospital-based clinics providing services to Medi-Cal beneficiaries.

The supplemental payments to public freestanding clinics are intended to be retroactive to July 1, 2006. These payments would be made periodically (quarterly or with respect to other time periods) on a lump-sum basis throughout each fiscal year, and would not be paid as individual increases to current reimbursement rates for specific services. The payments to freestanding clinics would supplement, and not supplant, specified existing levels of payments, but would be subject to all applicable federal payment limits.

The proposed State Plan Amendment to allow supplemental payments to public freestanding clinics is subject to approval by the federal Centers for Medicare & Medicaid Services.

PUBLIC REVIEW AND COMMENTS

Written comments, or requests for copies of the proposed State Plan Amendment, may be submitted to: Mr.

Bob Sands, Chief, Safety Net Financing Division, Department of Health Care Services, MS 4504, P.O. Box 997436, Sacramento, CA 95899-7436.

Written comments must be received on or before February 8, 2010.

DEPARTMENT OF HEALTH CARE SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

THE DEPARTMENT OF HEALTH CARE SERVICES IS PROPOSING SUPPLEMENTAL PAYMENTS FOR VETERANS HOMES THAT ARE OWNED OR OPERATED BY THE STATE AND PROVIDE NURSING FACILITY SERVICES TO MEDI-CAL BENEFICIARIES

This notice is to provide information of public interest with respect to supplemental payments that are proposed to be made to specified State veterans homes that provide skilled nursing services to Medi-Cal beneficiaries.

The supplemental payments to State veterans homes are intended to be retroactive to August 1, 2006. These payments would be made periodically (quarterly or with respect to other time periods) on a lump-sum basis throughout each fiscal year, and would not be paid as individual increases to current reimbursement rates for specific services. The payments to State veterans homes would supplement, and not supplant, specified existing levels of payments, but would be subject to all applicable federal payment limits.

The proposed State Plan Amendment to allow supplemental payments to State veterans homes is subject to approval by the federal Centers for Medicare & Medicaid Services.

PUBLIC REVIEW AND COMMENTS

Written comments, or requests for copies of the proposed State Plan Amendment, may be submitted to: Mr. Bob Sands, Chief, Safety Net Financing Division, Department of Health Care Services, MS 4504, P.O. Box 997436, Sacramento, CA 95899-7436.

Written comments must be received on or before February 8, 2010.

SUSPENSION OF ACTION REGARDING UNDERGROUND REGULATIONS

OFFICE OF ADMINISTRATIVE LAW

SUSPENSION OF ACTION REGARDING UNDERGROUND REGULATIONS

(Pursuant to Title 1, section 280, of the
California Code of Regulations)

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

On September 24, 2009, The Office of Administrative Law (OAL) received a petition challenging Policy for Disclosure of Placement Agent Fees issued by the California Public Employees' Retirement System (CalPERS) as an alleged underground regulation.

On December 8, 2009, CalPERS certified to the OAL that CalPERS will not "issue, use, enforce or attempt to enforce: the Policy for Disclosure of Placement Agency Fees; therefore, pursuant to Title 1, section 280 of the California Code of Regulations, OAL must suspend all action on this petition.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2009-1023-04

AIR RESOURCES BOARD

GHG Emissions From Heavy-Duty Vehicles 2008

This regulatory action is one of the "discrete early action measures" required to be adopted pursuant to AB

32. Its purpose is to reduce greenhouse gas (GHG) emissions by requiring on-road tractors and trailers operating on California highways to be equipped with technologies that will result in improved fuel efficiency. The rulemaking requires the use of Smartway-certified tractors and trailers and Smartway-approved aerodynamic technologies and low-rolling resistance tires.

Title 17

California Code of Regulations

ADOPT: 95300, 95301, 95302, 95303, 95304, 95305, 95306, 59307, 95308, 95309, 95310, 95311

Filed 12/09/2009

Effective 01/01/2010

Agency Contact: Trini Balcazar (916) 445-9564

File# 2009-1028-02

AIR RESOURCES BOARD

Semiconductor Operations 2009

This rulemaking adopts sections 95320 through 95326 in Title 17 of the California Code of Regulations. This rulemaking is in response to the California Global Warming Solutions Act of 2006 (AB 32, Ch. 488, Stats. 2006) that creates a comprehensive, multi-year program to reduce Greenhouse Gas (GHG) emissions in California. AB 32 instructed the Air Resources Board to develop a list of early discrete actions to reduce GHG emissions and to develop regulations to implement these early action measures no later than January 1, 2010. This rulemaking is designed to reduce GHG emissions from semiconductor operations. Semiconductor operations use GHGs in cleaning chemical vapor deposition tool chambers where thin films are deposited on wafers and also in etching chambers. These regulations establish new maximum allowable emission limits for semiconductor operations that are based on a tier system. The tiers are based upon the quantity of wafers processed at an operation. These new regulations also require yearly reporting on GHG emissions, GHGs used, wafer processing volume, emissions calculations and other information.

Title 17

California Code of Regulations

ADOPT: 95320, 95321, 95322, 95323, 95324, 95325, 95326

Filed 12/14/2009

Effective 01/01/2010

Agency Contact: Trini Balcazar (916) 445-9564

File# 2009-1023-05

AIR RESOURCES BOARD

Truck/Bus Rule 2008

This is the adoption of a regulation that will require in-use heavy heavy duty trucks, medium heavy duty trucks and busses powered by diesel engines to progres-

sively add the best available emission control technology for fine particulate matter and oxides of nitrogen to their engines over a period of phased-in implementation culminating in the year 2023.

Title 13
California Code of Regulations
ADOPT: 2025
Filed 12/09/2009
Effective 01/08/2010
Agency Contact: Trini Balcazar (916) 445-9564

File# 2009-1130-01
BOARD OF ACCOUNTANCY
Peer Review Program

This emergency regulatory action implements AB 138 (Stats. 2009, c. 312) dealing with peer review for California-licensed accounting firms providing accounting and auditing services. These emergency regulations define terms specific to peer review and specify the requirements for Board recognition of a peer review program, standards for administering a peer review, extensions of time for fulfilling the peer review requirement, exclusions from the peer review program, document submission, enrollment and participation, notification of expulsion from a peer review program, reporting requirements for a Board-recognized peer review program provider, withdrawal of Board recognition, and records of Board proceedings.

Title 16
California Code of Regulations
ADOPT: 39, 40, 41, 42, 43, 44, 45, 46, 48, 48.1, 48.2, 48.3, 48.5, 48.6
Filed 12/10/2009
Effective 01/01/2010
Agency Contact:
Matthew Stanley (916) 561-1792

File# 2009-1030-02
BUREAU OF AUTOMOTIVE REPAIR
Smog Inspection Requirements

BAR is the state agency charged with administration and implementation of the Smog Check Program (Program). In 2007, AB 1488 was adopted, requiring BAR to incorporate certain diesel-powered vehicles into the Program. BAR was required to at least include 1998 and newer model year vehicles with a gross vehicle weight (GVWR) up to and including 8,500 lbs. beginning January 1, 2010. AB 1488 also allowed for testing of diesel-powered vehicles with a GVWR up to and including 13,999 lbs. once ARB and BAR could effectively identify the vehicles and adopt tests for them. AB 1488 also requires a visual inspection of the emissions control devices and a test of the vehicle's exhaust emis-

sions, in accordance with procedures prescribed by BAR. BAR, in consultation with DMV and ARB determined that it would be more efficient to include vehicles with a GVWR up to and including 13,999, when the Program begins. This year, SB 734 changed the GVWR to 14,000 lbs. for diesel-powered vehicles in the Program. The diesel-powered vehicle population subject to the biennial Program for calendar year 2010 is expected to be approximately 540,000 vehicles. In addition, diesel-powered vehicles that are more than four model years old will require a Smog Check inspection upon change of ownership and upon initial registration in California, beginning January 1, 2010. For 2010, the number of inspections of diesel-powered vehicles is expected to be 325,000. BAR is providing the online diesel-specific inspection training to the technicians at no cost. They will not be required to purchase any new equipment. This regulatory amendment is also incorporating by reference the Smog Check Inspection Procedures Manual (August 2009) into section 3340.45.

Title 16
California Code of Regulations
ADOPT: 3340.45 AMEND: 3340.5, 3340.15, 3340.16, 3340.42
Filed 12/16/2009
Effective 12/16/2009
Agency Contact: Virginia Vu (916) 255-2135

File# 2009-1023-03
CALIFORNIA GAMBLING CONTROL
COMMISSION
Credit, Check, and ATMs

This action amends section 12388 which established the California Gambling Control Commission's requirements for extension of credit, check cashing and automatic teller machines. Section 12388 currently prohibits cardrooms from extending credit to a gambling business or third party provider of proposition player services (TPPS), when that credit is to be used to play a game that has a player-dealer position. It also requires licensees, prior to extending credit, to ensure that the patron is credit worthy. These amendments:

1. Specify that these credit prohibitions apply to an owner, supervisor, player or other employee of a gambling business or TPPS, and only when the TPPS is under contract with that cardroom. A cardroom cannot extend credit to a house prop player when the credit is to be used in a game with a player-dealer position. The regulatory amendments further refine and clarify the conditions under which the extension of credit is prohibited.

2. Clarify that the cardroom must verify patron information and assess their credit worthiness prior to extension of credit. They also allow a cardroom to use the "previous credit transactions" method of approval only

when a patron actually has a credit history with that cardroom.

3. Further refine when credit reports are retained by cardrooms. (Only if the “credit report option” was used to approve the credit and only kept for so long as the credit account is open.)

4. Prohibit cardrooms from extending additional credit if a person is delinquent in an existing loan by more than 90 days (based on the terms of the original credit agreement and not subsequent revisions).

5. Further refine replacement check policies for undeposited and dishonored checks.

6. And further clarifies other check cashing procedures.

Title 4

California Code of Regulations

AMEND: 12388

Filed 12/09/2009

Effective 01/08/2010

Agency Contact: James Allen (916) 263-4024

File# 2009-1207-01

CALIFORNIA STUDENT AID COMMISSION

Implement: California National Guard Education Assistance Award Program

The California Student Aid Commission proposes to adopt sections 30730, 30731, 30732, 30733, 30734, 30735, and 30736 in title 5 of the California Code of Regulations implementing the California National Guard Education Assistance Award Program.

Title 5

California Code of Regulations

ADOPT: 30730, 30731, 30732, 30733, 30734, 30735, 30736

Filed 12/16/2009

Effective 12/16/2009

Agency Contact: Kathy Spencer (916) 464-3021

File# 2009-1215-03

DEPARTMENT OF FOOD AND AGRICULTURE

Mediterranean Fruit Fly Interior Quarantine

This emergency rulemaking action expands the quarantine area for the Mediterranean Fruit Fly in San Diego County as a result of the trapping of several sexually mature adult males in December of 2009. The epicenters of the expanded quarantine area will be the trapping sites and include a 4.5 mile buffer zone around each. The rulemaking also deletes the exemption for movement of smooth skinned lemons, consistent with a similar deletion by the U.S. Department of Agriculture in the Code of Federal Regulations, based on research showing that this fruit also serves as a Mediterranean Fruit Fly host.

Title 3

California Code of Regulations

AMEND: 3406(b)(c)

Filed 12/16/2009

Effective 12/16/2009

Agency Contact:

Susan McCarthy (916) 654-1017

File# 2009-1214-02

DEPARTMENT OF FOOD AND AGRICULTURE

Light Brown Apple Moth Eradication Area

This is the proposed readoption of the emergency regulatory action designating the county of San Joaquin as an additional “eradication area” with respect to the light brown apple moth (*Epiphyas postvittana*). The prior emergency filing will expire on December 17, 2009. Eradication procedures need to be conducted in the City of Manteca due to the infestation of this harmful pest.

Title 3

California Code of Regulations

AMEND: 3591.20(a)

Filed 12/16/2009

Effective 12/16/2009

Agency Contact:

Stephen S. Brown (916) 654-1017

File# 2009-1113-01

DEPARTMENT OF INSURANCE

Disability Income Insurance Benefit Reduction Regulations

The Department of Insurance (Department) proposed this action to repeal title 10, California Code of Regulations, sections 2232.45.1 through 2232.45.5 (“Limits on Benefit Reductions in Group Disability Income Insurance Policies”).

Title 10

California Code of Regulations

REPEAL: 2232.45.1, 2232.45.2, 2232.45.3, 2232.45.4, 2232.45.5

Filed 12/15/2009

Effective 01/14/2010

Agency Contact: Nancy Hom (415) 538-4144

File# 2009-1110-03

DEPARTMENT OF MOTOR VEHICLES

Total Loss Salvage and Nonrepairable Vehicles

This rulemaking action implements the Provisions of Assembly Bill 1122, Chapter 412 of 2006, and Assembly Bill 2273, Chapter 97 of 2008, by amending Title 13 of the California Code of Regulations section 155.05 and by adding section 155.07 to that Title so as to separate provisions of the salvage title application process from the nonrepairable vehicle certificate application process and to update several state forms used in these processes.

Title 13
California Code of Regulations
ADOPT: 155.07 AMEND: 155.05
Filed 12/15/2009
Effective 01/14/2010
Agency Contact: Randi Calkins (916) 657-8898

File# 2009-1029-02
DEPARTMENT OF SOCIAL SERVICES
MPP Section 70-104.2 Editorial Correction

This action amends section 70-104.2 of the Manual of Policies and Procedures as a change without regulatory effect to more accurately state that "Eligibility for state-funded services for victims of serious crimes will be terminated when the recipient's application for a U Visa has been finally administratively denied, as defined in Section 70-103.511, or when the program time limitation has been reached, whichever comes first." Previously, the last part of section 70-104.2 stated that eligibility ended "... or when the 60-month program limitation has been reached, which ever comes first." A victim of a serious crime may be eligible for a variety of public service programs. Each program has its own program time limitation, and each program time limitation is not 60-months; thus, the time limitation depends on what program the victim ends up participating in.

Title MPP
California Code of Regulations
AMEND: 70-104
Filed 12/15/2009
Agency Contact: Sandra Ortega (916) 657-2586

File# 2009-1106-01
DIVISION OF WORKERS COMPENSATION
Workers' Compensation — Forms

The Division of Workers Compensation submitted this action to amend two sections under title 8, California Code of Regulations, as changes without regulatory effect, pursuant to title 8, California Code of Regulations, section 100. The amendment to title 8, section 9812(g)(2) corrects the title of a fact sheet form provided with notices to permanent disability claimants, from "Temporary Disability Fact Sheet" to "Permanent Disability Fact Sheet," consistent with the provisions in subdivision (g)(2). The amendment to title 8, section 10111.2(a)(9) corrects an outdated cross-reference.

Title 8
California Code of Regulations
AMEND: 9812, 10111.2
Filed 12/09/2009
Agency Contact:
James M. Robbins (415) 703-4669

File# 2009-1030-03
EDUCATION AUDIT APPEALS PANEL
Audits of K-12 LEAs — FY 2009-10

This is a certification of compliance filing by the Education Audit Appeals Panel (EAAP) to certify emergency regulations in effect since July 2009 relating to the 2009-2010 audit guide for accountants in the conduct of the statutorily required financial and compliance audits of local education agencies.

Title 5
California Code of Regulations
ADOPT: 19828.4, 19837.3, 19839, 19845.2
AMEND: 19815, 19816, 19816.1, 19828.3, 19837.2, 19845.1, 19846
Filed 12/16/2009
Agency Contact: Carolyn Pirillo (916) 445-7745

File# 2009-1103-02
MEDICAL BOARD OF CALIFORNIA
Review of International Medical Schools

This rulemaking action amends Section 1314.1 of Title 16 of the California Code of Regulations to update and clarify the criteria used to evaluate the competency and quality of foreign medical schools by the Medical Board of California. The rulemaking eliminates the requirement that a school be government owned and operated and that the country in which it is located be a member of the Organization for Economic Cooperation and Development. The amendments to the regulation clarify that curriculum must be outcome based, that "professionalism" is taught, that admitted students generally meet equivalent entrance requirements as those students admitted to U.S. medical schools, that affiliations with other schools wherein part of the coursework may be completed are disclosed, and that data are collected on such matters as the percentage of graduates who ultimately become licensed and concerning any significant increases in enrollment.

Title 16
California Code of Regulations
AMEND: 1314.1
Filed 12/09/2009
Effective 01/08/2010
Agency Contact:
Kevin A. Schunke (916) 263-2368

File# 2009-1208-01
STATE WATER RESOURCES CONTROL BOARD
Emergency Regs. To Conform With Budget Act 2009/10 (ch 1, st of 2009)

The State Water Resources Control Board submitted this emergency rulemaking action to make annual adjustments to waste discharger fees in title 23, California Code of Regulations, section 2200 to conform to the

revenue levels in 2009–2010 Budget Act. Water Code section 13260(f) requires the Board to adopt a schedule of waste discharger fees and to adjust the fees annually in accordance with the Administrative Procedure Act, but deems these actions an emergency, exempts them from OAL review, and allows the emergency regulations to remain in effect until revised by the Board. The Board approved the Section 2200 fee adjustments for the 2009–2010 Budget Act at its October 6, 2009 meeting.

Title 23

California Code of Regulations

AMEND: 2200

Filed 12/15/2009

Effective 12/15/2009

Agency Contact:

David Ceccarelli (916) 341–5999

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN July 15, 2009 TO
December 16, 2009**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

11/24/09 AMEND: 1859.2
11/24/09 AMEND: 1859.2, 1859.35, 1859.51, Form SAB 50–02, SAB Form 50–03, SAB Form 50–04
11/17/09 ADOPT: 20810, 20811, 20812, 20813, 20814, 20815, 20816, 20817, 20818, 20819, 20820, 20821, 20822, 20823, 20830, 20831, 20832, 20833, 20840, 20841, 20842
11/16/09 AMEND: 1859.129, 1859.197
11/12/09 ADOPT: 18944.4 AMEND: 18944.3
11/12/09 ADOPT: 18219, 18734
11/09/09 ADOPT: 1859.148.2, 1859.166.2 AMEND: 1859.2, 1859.121, 1859.164.2, 1859.197
11/09/09 ADOPT: 604 REPEAL: 604
11/05/09 ADOPT: 60800, 60801, 60802, 60803, 60804, 60805, 60806, 60807, 60808, 60809, 60810, 60811, 60812, 60813, 60814, 60815, 60816, 60817, 60818, 60819, 60820, 60821, 60822, 60823,

60824, 60825, 60826, 60827, 60828, 60829, 60830, 60831, 60832, 60833, 60834, 60835, 60836, 60837, 60840, 60841, 60842, 60843, 60844, 60845, 60846, 60847, 60848, 60849, 60850, 60851, 60852, 60853, 60854, 60855

11/03/09 ADOPT: 1859.96 AMEND: 1859.2, 1859.90

10/01/09 AMEND: 2291, 2292, 2294 ADOPT: 2297

10/01/09 AMEND: 1898.2, 1898.7

09/22/09 ADOPT: 18603, 18603.1

09/22/09 ADOPT: 18901.1 AMEND: 18420.1

09/18/09 AMEND: 1859.76

09/17/09 AMEND: 2270, 2271

09/14/09 AMEND: 588.1, 588.2

08/31/09 ADOPT: 1859.324.2 AMEND: 1859.302, 1859.324.1, 1859.330

08/03/09 ADOPT: 647.5, 647.25, 647.36, 647.37.1 AMEND: 647.1, 647.2, 647.3, 647.4, 647.20, 647.20.1, 647.22, 647.23, 647.24, 647.26, 647.30, 647.31, 647.32, 647.33, 647.35, 647.38 REPEAL: 647.25, 647.34

07/30/09 ADOPT: 1899.570, 1899.575, 1899.580, 1899.585

07/20/09 ADOPT: 721

Title 3

12/16/09 AMEND: 3591.20(a)

12/16/09 AMEND: 3406(b)(c)

11/25/09 AMEND: 3435(b)

11/24/09 AMEND: 3430(b)

11/16/09 AMEND: 3435(b)

11/16/09 AMEND: 3406(b)(c)

11/10/09 AMEND: 3434(b)

10/30/09 AMEND: 3435(b), (c) and (d)

10/15/09 AMEND: 3434(b)

10/08/09 AMEND: 3434(b)

10/08/09 AMEND: 3591.20(a)

09/24/09 AMEND: 3406(b)

09/24/09 AMEND: 3434(b)

09/22/09 AMEND: 6562

09/15/09 AMEND: 3434(b)

09/14/09 AMEND: 3435(b)

09/10/09 ADOPT: 2300.1, 2300.2, 2300.3 AMEND: 2300

09/09/09 AMEND: 3434(b)

09/03/09 AMEND: 3434(b)

09/01/09 AMEND: 3435(b)

08/28/09 AMEND: 3434(b)

08/27/09 AMEND: 3435(b)

08/27/09 AMEND: 3588

08/26/09 AMEND: 6400, 6502, 6620, 6626(a)–(b), 6626(c), 6627, 6670, 6672,

	6736, and incorporated by reference forms	07/21/09	AMEND: 42920
08/20/09	AMEND: 3406(b)	07/21/09	ADOPT: 40411
08/20/09	AMEND: 3591.13(a)	Title 8	
08/13/09	AMEND: 3434(b)	12/09/09	AMEND: 9812, 10111.2
08/13/09	AMEND: 6618, 6619, 6761.1, 6770, 6771	12/02/09	AMEND: 4086
08/12/09	ADOPT: 902.15	11/19/09	AMEND: 15600, 15601, 15602, 15603, 15604, 15605, 15606, 15607, 15611
08/07/09	AMEND: 3406(b)	11/04/09	AMEND: 9771, 9778, 9779, 9779.5 REPEAL: 9779.9
08/05/09	AMEND: 3434(b), 3434(c)	10/28/09	AMEND: 3333, 3650
08/04/09	AMEND: 3423(b)	10/26/09	AMEND: 5306
07/31/09	ADOPT: 3436	10/22/09	AMEND: 3277
07/24/09	AMEND: 3434(b)	10/07/09	AMEND: 2395.6
07/22/09	ADOPT: 3591.23	08/31/09	AMEND: 3385
07/22/09	AMEND: 3406(b)	08/27/09	AMEND: 3400
07/21/09	AMEND: 3591.2(a)	07/31/09	AMEND: 1637, 1646
07/20/09	AMEND: 3591.20(a)	07/27/09	AMEND: 5006.1
Title 4		07/24/09	AMEND: 3466
12/09/09	AMEND: 12388	07/23/09	AMEND: 1598, 1599
12/08/09	ADOPT: 12218.8, 12218.9, 12238, 12239 AMEND: 12200.9, 12200.10A, 12200.11, 12200.13, 12203.2, 12205.1, 12218, 12218.7, 12220.13, 12220.18, 12220.23, 12225.1, 12233, 12235	Title 9	
10/27/09	AMEND: 8034, 8035, 8042, 8043	11/04/09	ADOPT: 3200.125, 3200.215, 3200.217, 3200.253, 3200.254, 3200.255, 3200.256, 3200.275, 3200.276, 3200.320, 3200.325, 3550, 3810, 3820, 3830, 3840, 3841, 3842, 3843, 3844, 3844.1, 3845, 3850, 3851, 3851.1, 3852, 3853, 3854, 3854.1, 3854.2, 3856 AMEND: 3310, 3510
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